

FILED  
COURT OF APPEALS DIV #1  
STATE OF WASHINGTON  
2007 AUG 13 PM 3:14

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION I

In re Personal Restraint  
Petition of

81522-4

No. 59970-4-I

STATE'S RESPONSE TO  
PERSONAL RESTRAINT  
PETITION

STEVEN CLARK,  
Petitioner.

A. AUTHORITY FOR RESTRAINT OF PETITIONER.

Steven Clark is restrained pursuant to judgment and sentence in King County Superior Court No. 97-1-09348-8 SEA. Appendix A. Clark has completed his term of confinement pursuant to this judgment. However, Clark is currently serving a term of life imprisonment without possibility of parole pursuant to judgment and sentence in King County Superior Court No. 99-1-094131-6 SEA.

B. ISSUES PRESENTED.

1. Whether this petition should be dismissed as untimely where the judgment and sentence as modified is valid on its face.

STATE'S RESPONSE TO  
PERSONAL RESTRAINT PETITION

2. Whether this petition should be dismissed where the misadvisement in the plea form was not material.

C. STATEMENT OF THE CASE.

In 1998, Clark pled guilty to two counts of robbery in the second degree. Appendix B. The crimes occurred on October 29, 1997, and November 3, 1997. Appendix B. In exchange for his plea, the State agreed to dismiss a third charge of robbery in the second degree. Appendix B. The plea form advised Clark that "[i]n addition to confinement, the judge will sentence me to community placement for at least one year." Appendix B, at 5. However, the State's recommendation did not include a period of community placement. Appendix B, at 4.

Clark was sentenced on February 27, 1998. Appendix A. He received a sentence of 25 months of total confinement. Appendix A. The Court imposed a term of community placement. Appendix A. However, two weeks later, on March 12, 1998, the court entered an Order Modifying Judgment and Sentence, vacating the term of community placement. Appendix C. Clark did not appeal his convictions or sentence.

D. ARGUMENT.

1. THIS PETITION SHOULD BE DISMISSED AS  
UNTIMELY BECAUSE THE JUDGMENT IS VALID ON ITS  
FACE.

Clark contends that his claim is not time-barred because his judgment and sentence is invalid on its face. This claim should be rejected. The Court entered an order modifying the judgment and sentence, and the judgment as modified is valid on its face. As such, State v. Hemenway, supra, is controlling, and Clark's petition should be dismissed as untimely.

An appellate court will grant substantive review of a personal restraint petition only when the petitioner makes a threshold showing of constitutional error from which he has suffered actual prejudice or nonconstitutional error which constitutes a fundamental defect that inherently resulted in a complete miscarriage of justice. In re Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). In a personal restraint petition, petitioner bears the burden of showing prejudicial error. State v. Brune, 45 Wn. App. 354, 363, 725 P.2d 454 (1986). Bare allegations unsupported by citation to authority, references to the record, or persuasive reasoning cannot sustain this burden of proof. Brune, 45 Wn. App. at 363.

No petition collaterally attacking a judgment and sentence may be filed more than one year after the judgment becomes final, if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. RCW 10.73.090(1). A judgment becomes final on the date that it is filed with the clerk of the trial court if no appeal is filed. RCW 10.73.090(3). In the present case, the judgment and sentence became final on the date the order modifying the judgment and sentence was filed with the clerk of the trial court on March 13, 1998. See e.g., In re Skylstad, \_\_\_ Wn.2d \_\_\_, 162 P.3d 413 (2007) (finality occurs for purposes of RCW 10.73.090 when both conviction and sentence are final). This motion, attacking the facial validity of that conviction, was not filed until May of 2007, more than nine years later.

The one-year time limit only applies if the judgment and sentence is "valid on its face." RCW 10.73.090(1). A judgment is valid on its face unless the judgment evidences an error without further elaboration. In re Thompson, 141 Wn.2d 712, 10 P.3d 380 (2000). Facial invalidity has been interpreted to include those documents signed as part of a plea agreement as well as the judgment and sentence itself. State v. Robinson, 104 Wn. App. 657, 17 P.3d 653 (2001). The documents of the plea can inform

the inquiry as to whether the judgment and sentence is invalid on its face. State v. Hemenway, 147 Wn.2d 529, 55 P.3d 615 (2002). However, misinformation about the consequences of a plea is not a facial defect exempt from the one-year time limit on collateral attack. Id. at 533.

Clark argues that his 1998 judgment and sentence is invalid on its face because he was misinformed about the term of community placement that would be imposed. State v. Hemenway, supra, is directly on point. Hemenway pled guilty to child molestation in the first degree in 1996. The plea form did not advise Hemenway as to the mandatory two-year period of community placement, but rather stated that "the judge may place me on community supervision." 147 Wn.2d at 530. At sentencing the court properly imposed a two-year term of community placement. Id. at 531.

Five years later, Hemenway filed a personal restraint petition contending that his guilty plea was involuntary because he was misadvised as to the mandatory period of community placement. Id. In the state supreme court, Hemenway argued that his petition was not time-barred by RCW 10.73.090 because his plea was invalid on its face. Id. The supreme court disagreed, holding that

the petition was time-barred because the judgment and sentence was not invalid on its face. Id. at 532-33. The court stated, "the 'facial validity' inquiry is directed to the judgment and sentence itself." Id. at 532. The court concluded that the judgment and sentence was valid on its face because Hemenway was sentenced to the correct period of community placement. Id. The court rejected Hemenway's claim that the judgment and sentence should be considered invalid because the plea form was invalid on its face. Id. The Court stated, "[t]he question is not, however, whether the plea documents are facially invalid, but rather whether the judgment and sentence is invalid on its face. The plea documents are relevant only where they may disclose invalidity in the judgment and sentence. Here they do not." Id. at 533.

The supreme court reaffirmed this holding in In re Turay, 150 Wn.2d 71, 82, 74 P.3d 1194 (2003), stating that in Hemenway "we noted that the relevant question in a criminal case is whether the judgment and sentence is valid on its face, not whether related documents, such as plea agreements, are valid on their face."

Likewise, the fact that the plea form erroneously advised Clark that he would be placed on community placement does not render Clark's judgment and sentence invalid on its face. The

judgment and sentence, as modified by the March 12, 1998 order, properly imposed no term of community placement. The judgment and sentence as modified is valid on its face, and thus Clark's collateral attack on the judgment and sentence is time-barred pursuant to RCW 10.73.090 and Hemenway.

2. THE MISTAKE IN THE PLEA FORM ADVISING CLARK THAT COMMUNITY PLACEMENT WOULD BE IMPOSED WAS NOT MATERIAL.

Clark contends that the mistake in the plea form, which incorrectly advised him that he would be sentenced to one year of community placement, rendered his plea involuntary. Even if this claim were not time-barred, as argued above, it should be rejected on the merits. The facts of this case belie Clark's claim. It is clear that the advisement regarding community placement was not material to Clark's decision to plead guilty. Clark has failed to establish that his plea was invalid.

Clark's attempts to rely on In re Isadore, 151 Wn.2d 294, 88 P.3d 390 (2004). His reliance is misplaced. In Isadore, the plea documents failed to advise Isadore that a one-year period of community placement would be imposed as part of his sentence. Id. at 297. The court held that failure to advise him of the mandatory period of community placement constituted a failure to

inform the defendant of all the direct consequences of the plea, which rendered the plea invalid. Id. at 298. The reasoning is simple: Isadore had not been advised of all the punishment that he would receive. This did not happen in Clark's case. He was properly advised of all the punishment that was statutorily authorized, and thus received no punishment of which he was not aware at the time of the plea. Indeed, he received slightly less punishment. Unlike Isadore, Clark was advised of all the direct consequences of his plea. As such, his plea valid and he is not entitled to relief.

Moreover, unlike the facts presented in Isadore, the facts in Clark's case conclusively demonstrate that the misadvisement regarding community placement was not material to Clark's decision to plead guilty. In Isadore, the supreme court held that a reviewing court is not equipped to determine whether a misadvisement regarding a direct consequence was material to the defendant's decision to plead guilty, and thus a showing of materiality by the defendant is not required. Id. at 302. However, when the facts conclusively establish that the misadvisement was not material to the defendant's decision to plead guilty, relief is not warranted. See e.g., State v. Mendoza, 157 Wn.2d 582, 141 P.3d

49 (2006) (holding that misadvisement that standard range was higher not a basis for withdrawal of plea where defendant did not object when advised at sentencing). That is the case here.

Clark's claim that he would have wished to withdraw his guilty plea if he had known he would not have to serve a period of community placement is not only patently absurd, but contradicted by the facts. Clark was released from prison in March of 1999,<sup>1</sup> and was obviously aware at that time that he was not being required to serve a community placement term. He requested no relief at that time. He certainly did not move to withdraw his plea. It is obvious that Clark's present stated desire to withdraw his plea has nothing to do with the voluntariness of that plea, and is simply an attempt to invalidate his current persistent offender sentence.

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<sup>1</sup> With 109 days credit for time served and earned early release time totaling one-third of the sentence, as provided by former RCW 9.94A.150 (1997), Clark had approximately 13 months left to serve on his 25-month sentence when he was sentenced in February of 1998. Department of Corrections records indicate that Clark was confined in prison from March 3, 1998, to March 23, 1999. Appendix D. On March 23, 1999, he was transferred to the King County Jail because he was charged with a new crime in King County Cause No. 99-1-02058-4. Appendix D and E. He pled guilty to delivery of a controlled substance, and was sentenced to 12 months plus one day of confinement to be served concurrently with Cause No. 97-1-09348-8 SEA on May 14, 1999. Appendix E. He was released from jail on May 1, 1999. Appendix D. Thus, Clark was aware that he was not required to serve a term of community placement pursuant to Cause No. 97-1-09348-8 SEA, at the very latest, in March of 1999, when he was released from prison and transported to the King County Jail.

There can be no doubt under the facts of this case that the misadvisement regarding community placement was not material, and did not render Clark's plea involuntary. Clark has failed to establish that his plea was invalid. His request for relief should be denied.

E. CONCLUSION.

This petition should be dismissed.

DATED this 11th day of August, 2007.

Respectfully Submitted,

NORM MALENG  
King County Prosecuting  
Attorney

DAN SATTERBERG  
Interim King County Prosecuting  
Attorney

by 

ANN SUMMERS, #21509  
Senior Deputy Prosecuting  
Attorney  
Attorneys for Respondent  
Office ID #91002

W554 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104  
(206) 296-9650

## APPENDIX A

# SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J CLARK

Defendant.

No. 97-1-09348-8 SEA

JUDGMENT AND SENTENCE

**FILED**

90 MAR -2 AM 7:58

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

MAR 2 1998

COMMITMENT ISSUED

COPY TO SENTENCING GUIDELINES COMMISSION  
PRESENTING STATEMENT & INFORMATION ATTACHED

## I. HEARING

1.1 The defendant, the defendant's lawyer, ALICE M ZALESKI, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: \_\_\_\_\_

1.2 The state has moved for dismissal of count(s) III

## II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 01-20-98 by plea of:

Count No.: I Crime: ROBBERY IN THE 2ND DEGREE  
RCW 9A.56.210 Crime Code 02924  
Date of Crime 10-29-97 Incident No. \_\_\_\_\_

Count No.: II Crime: ROBBERY IN THE SECOND DEGREE  
RCW 9A.56.210 Crime Code 02924  
Date of Crime 11-03-97 Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code \_\_\_\_\_  
Date of Crime \_\_\_\_\_ Incident No. \_\_\_\_\_

☐ Additional current offenses are attached in Appendix A.

## SPECIAL VERDICT/FINDING(S):

- (a) ☐ A special verdict/finding for being armed with a Firearm was rendered on Count(s): \_\_\_\_\_  
☐ A special verdict/finding for being armed with a Deadly Weapon other than a Firearm was rendered on Count(s): \_\_\_\_\_  
 (c) ☐ A special verdict/finding was rendered that the defendant committed the crimes(s) with a sexual motivation in Count(s): \_\_\_\_\_  
 (d) ☐ A special verdict/finding was rendered for Violation of the Uniform Controlled Substances Act offense taking place  
☐ in a school zone ☐ in a school ☐ on a school bus ☐ in a school bus route stop zone ☐ in a public park ☐ in public transit vehicle ☐ in a public transit stop shelter in Count(s): \_\_\_\_\_  
 (e) ☐ Vehicular Homicide ☐ Violent Offense (D.W.I. and/or reckless) or ☐ Nonviolent (disregard safety of others)  
 (f) ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: \_\_\_\_\_

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): \_\_\_\_\_

|         |
|---------|
| OPROD   |
| CUST(c) |
| CASH(d) |
| JUDG(e) |
| DISP(f) |
| CFM     |
| 22      |
| EXH     |

20  
POSTED

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

| Crime      | Sentencing Date | Adult or Juv. Crime | Cause Number | Location |
|------------|-----------------|---------------------|--------------|----------|
| (a) BURG 2 | 04-09-87        | ADULT               | 861046701    | KING     |
| (b) ASLT 2 | 08-18-89        | ADULT               | 891014366    | KING     |
| (c)        |                 |                     |              |          |
| (d)        |                 |                     |              |          |

☐ Additional criminal history is attached in Appendix B.

☐ Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):

☐ One point added for offense(s) committed while under community placement for count(s) \_\_\_\_\_

2.4 **SENTENCING DATA:**

| SENTENCING DATA | OFFENDER SCORE | SERIOUSNESS LEVEL | STANDARD RANGE | ENHANCEMENT | TOTAL STANDARD RANGE | MAXIMUM TERM           |
|-----------------|----------------|-------------------|----------------|-------------|----------------------|------------------------|
| Count I         | 7              | IV                |                |             | 22 TO 29 MONTHS      | 10 YRS AND/OR \$20,000 |
| Count II        | 5              | IV                |                |             | 22 TO 29 MONTHS      | 10 YRS AND/OR \$20,000 |
| Count           |                |                   |                |             |                      |                        |

Additional current offense sentencing data is attached in Appendix C.

2.5 **EXCEPTIONAL SENTENCE:**

☐ Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) \_\_\_\_\_. Findings of Fact and Conclusions of Law are attached in Appendix D. The State ☐ did ☐ did not recommend a similar sentence.

**III. JUDGMENT**

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

☒ The Court DISMISSES Count(s) III Robbery in the 2nd Degree

**IV. ORDER**

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 **RESTITUTION AND VICTIM ASSESSMENT:**

☒ Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.

☐ Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.

☒ Restitution to be determined at future hearing on (Date) \_\_\_\_\_ at \_\_\_\_\_ m. ☐ Date to be set.

☐ Defendant waives presence at future restitution hearing(s).

☒ Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.

☐ Restitution is not ordered.

4.2 **OTHER FINANCIAL OBLIGATIONS:** Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

(a) ☐ \$ \_\_\_\_\_, Court costs; ☒ Court costs are waived;

(b) ☐ \$ \_\_\_\_\_, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; ☒ Recoupment is waived (RCW 10.01.160);

(c) ☐ \$ \_\_\_\_\_, Fine; ☐ \$1,000, Fine for VUCSA; ☐ \$2,000, Fine for subsequent VUCSA; ☐ VUCSA fine waived (RCW 69.50.430);

(d) ☐ \$ \_\_\_\_\_, King County Interlocal Drug Fund; ☐ Drug Fund payment is waived;

(e) ☐ \$ \_\_\_\_\_, State Crime Laboratory Fee; ☐ Laboratory fee waived (RCW 43.43.690);

(f) ☐ \$ \_\_\_\_\_, Incarceration costs; ☐ Incarceration costs waived (9.94A.145(2));

(g) ☐ \$ \_\_\_\_\_, Other cost for: \_\_\_\_\_

*interest + trust fees waived*

4.3 **PAYMENT SCHEDULE:** Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 3,773. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

☐ Not less than \$ \_\_\_\_\_ per month; ☒ On a schedule established by the defendant's Community Corrections Officer. ☐ \_\_\_\_\_

The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: ☒ Immediately; ☐ (Date): \_\_\_\_\_ by \_\_\_\_\_, m.

25 months on Count I \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

ENHANCEMENT time due to special deadly weapon/firearm finding of \_\_\_\_\_ months is included for Counts \_\_\_\_\_

The terms in Count(s) I + II are concurrent consecutive.

The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) \_\_\_\_\_ but consecutive to any other cause not referred to in this Judgment.

Credit is given for ☒ 109 days served ☐ days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15).

4.5 ☒ **NO CONTACT:** For the maximum term of 10 years, defendant shall have no contact with Estella Kim, Christian Scheller, & Alice Thai as named in cert for P/C. Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

✓ 4.6 **BLOOD TESTING:** (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 **COMMUNITY PLACEMENT, RCW 9.94A.120(9):** Community Placement is ordered for any of the following eligible offenses: any "sex offense", any "serious violent offense", second degree assault, any offense with a deadly weapon finding, any CH. 69.50 or 69.52 RCW offense, for the maximum period of time authorized by law. All standard and mandatory statutory conditions of community placement are ordered.  
☒ Appendix H (for additional nonmandatory conditions) is attached and incorporated herein.

4.8 ☐ **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp and is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the Department shall convert the period of work ethic camp confinement at a rate of one day of work ethic camp to three days of total standard confinement and the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b).

☐ Appendix K for additional special conditions, RCW 9.94A.120(9)(c), is attached and incorporated herein.

4.9 ☐ **SEX OFFENDER REGISTRATION** (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10 ☐ **ARMED CRIME COMPLIANCE, RCW 9.94A.103,105.** The state's plea/sentencing agreement is ☐ attached ☐ as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: FEB. 27, 1998

Judge Anthony P. Wartnik  
Print Name: ANTHONY P. WARTNIK

Presented by: [Signature]  
Deputy Prosecuting Attorney, Office WSBA ID #91002  
Print Name: Shannon Anderson

Approved as to form:  
[Signature]  
Attorney for Defendant, WSBA # 15053  
Print Name: Alice M. Zaleski

FINGERPRINTS



RIGHT HAND  
FINGERPRINTS OF:

STEVEN JOSEPH CLARK

DATED: 2/27/98

Anthony P. Wartick  
JUDGE, KING COUNTY SUPERIOR COURT

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: 3253 N. E. ST.  
Carnation WA, 98014

DOC

ATTESTED BY:

M. JANICE MICHELS, SUPERIOR COURT CLERK

BY: Patricia A. Ruehn  
DEPUTY CLERK

CERTIFICATE

I, \_\_\_\_\_,  
CLERK OF THIS COURT, CERTIFY THAT  
THE ABOVE IS A TRUE COPY OF THE  
JUDGEMENT AND SENTENCE IN THIS  
ACTION ON RECORD IN MY OFFICE.  
DATED: \_\_\_\_\_

CLERK

BY: \_\_\_\_\_

DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO. WA14406779

DATE OF BIRTH: DECEMBER 7, 1967

SEX: M

RACE: WHITE

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN JOSEPH CLARK,

Defendant,

No. 97-1-09348-8 SEA

ORDER SETTING RESTITUTION

The court ordered payment of restitution as a condition of sentencing. The Court has determined that the following persons are entitled to restitution in the following amounts;

IT IS ORDERED that defendant make payments through the registry of the clerk of the court as follows:

Christina Schaller  
c/o Wells Fargo Bank  
1620 Fourth Ave.  
Seattle, WA 98101

AMOUNT: \$56.00

Estela Kim  
c/o Washington Federal Savings and Loan  
425 Pike St.  
Seattle, WA 98101

AMOUNT: \$30.00

Wells Fargo Bank  
1620 Fourth Ave.  
Seattle, WA 98101  
RE: 10/29/97 robbery

AMOUNT: \$1,797.00

Washington Federal Savings and Loan  
425 Pike St.  
Seattle, WA 98101  
RE: 11/3/97 robbery

AMOUNT: \$1,390.00

DONE IN OPEN COURT this 29<sup>th</sup> day of February, 1998.

*Anthony P. Wartnik*  
JUDGE ANTHONY P WARTNIK

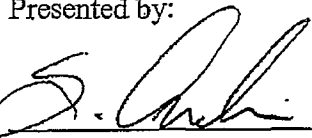
TITLE - 1

Norm Maleng, Prosecuting Attorney  
W554 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104  
(206) 296-9000  
FAX (206) 296-0955

327320

1 Presented by:

Copy received; Notice  
Presentation waived:

2 

Alice M Zaleski 15053

3  
4 Shannon Anderson  
Deputy Prosecuting Attorney

Alice Zaleski/PDA  
Attorney for Defendant

5 Order Setting Restitution

6 CCN# 1239567

REF# 97111118

7 MA

22  
TITLE - 2

Norm Maleng, Prosecuting Attorney  
W554 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104  
(206) 296-9000  
FAX (206) 296-0955

DNA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J CLARK

Defendant.

No. 97-1-09348-8 SEA

APPENDIX G  
ORDER FOR BLOOD TESTING  
AND COUNSELING

(1) ☐ HIV TESTING AND COUNSELING:

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense committed after March 23, 1988. RCW 70.24.340):

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 296-4848 to make arrangements for the test to be conducted within 30 days.

(2) ☒ DNA IDENTIFICATION:

(Required for defendant convicted of sexual offense or violent offense. RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention and/or the State Department of Corrections in providing a blood sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangement for the test to be conducted within 15 days.

If both (1) and (2) are checked, two independent blood samples shall be taken.

Date: FEB. 27, 1998

Anthony B. Wartick  
JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J CLARK

Defendant.

No. 97-1-09348-8 SEA

APPENDIX H  
COMMUNITY PLACEMENT

The Court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

**COMMUNITY PLACEMENT:** Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after 1 July 1990 to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) **MANDATORY CONDITIONS:** Defendant shall comply with the following conditions during the term of community placement:

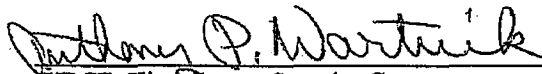
- (1) Report to and be available for contact with the assigned community corrections officer as directed;
- (2) Work at Department of Corrections-approved education, employment, and/or community service;
- (3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) While in community custody not unlawfully possess controlled substances;
- (5) Pay community placement fees as determined by the Department of Corrections;
- (6) Receive prior approval for living arrangements and residence location; and
- (7) Defendant shall not own, use, or possess a firearm or ammunition when sentenced to community service, community supervision or both. (RCW 9.94A.120(13))

**WAIVER:** The following above-listed mandatory conditions are waived by the court: \_\_\_\_\_

(b) ☐ **OFF-LIMITS ORDER (SODA):** The Court finds that the defendant is a known drug trafficker as defined in RCW 10.66.010(3) who has been associated with drug trafficking in an area described in Attachment A. Attachment A is incorporated by reference into the Judgment and Sentence and the Court also finds that the area described in Attachment A is a Protected Against Drug Trafficking area (PADT). As a condition of community placement, the defendant shall neither enter nor remain in the PADT area described in Attachment A. \_\_\_\_\_

(c) **OTHER CONDITIONS:** Defendant shall comply with the following other conditions during the term of community placement: \_\_\_\_\_

Date: FEB 27, 1997

  
JUDGE, King County Superior Court

## APPENDIX B

FILED

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

90 JAN 22 AM 10:10  
KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

☐ Accelerated  
☐ Non Accelerated  
☐ DPA ☐ Defense

STATE OF WASHINGTON

Plaintiff,

v.

Steven Clark

Defendant.

No. 97-1-09348-8 SEA

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY  
(Felony)

1. My true name is Steven J. Clark
2. My age is 30. Date of birth 12-7-67
3. I went through the 12~~th~~ grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is Aliw M. Zalutski

(b) I am charged with the crime(s) of Robbery in the Second Degree (2 counts)

The elements of this crime(s) are see ~~attached~~ information, attached  
and incorporated by reference herein

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 1 OF 9

SC FORM REV 10/97



(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I UNDERSTAND THAT:

(a) The crime(s) with which I am charged carries a maximum sentence(s) of 10  
years imprisonment and a \$ 20,000 <sup>per count</sup> fine.

RCW 9.94A.030(23),(27), provide that for a third conviction for a "most serious offense" as defined in that statute or for a second conviction for a "most serious offense" which is also a "sex offense" as defined in that statute I may be found a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4). The law does not allow any reduction of this sentence.

(b) The standard sentence range is from 22 (days) months to 29 (days) months confinement, based on the prosecuting attorney's understanding of my criminal history. The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. If my current offense was prior to 7/1/97: criminal history always includes juvenile convictions for sex offenses and also for Class A felonies that were committed when I was 15 years of age or older; may include convictions in Juvenile Court for felonies or serious traffic offenses that were committed when I was 15 years of age or older; and juvenile convictions, except those for sex offenses and Class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty. If my current

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 2 OF 9

SC FORM REV 10/97

offense was after 6/30/97: criminal history includes all prior adult and juvenile convictions or adjudications.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if I was on community placement at the time of the offense to which I am now pleading guilty, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase.

If the current offense to which I am pleading guilty is a most serious offense as defined by RCW 9.94A.030,(23),(27), and additional criminal history is discovered, not only do the conditions of the prior paragraph apply, but also if my discovered criminal history contains additional prior convictions, whether in this state, in federal court, or elsewhere, of most serious offense crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody.RCW 9.94A.120(4).

Even so, my plea of guilty to this charge is binding on me. I cannot change my plea if additional criminal history is discovered, even though it will result in the mandatory sentence that the law does not allow to be reduced.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$500.00, or \$100.00 if my crime date is prior to 6/7/96, as a victim's compensation fund assessment. If this crime resulted in injury to any person or damages to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, incarceration, lab and attorney fees. Furthermore, the judge may place me on community supervision,

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 3 OF 9

SC FORM REV 10/97

impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_

*per count to be served concurrently,*  
29 months, Victim Penalty Assessment, court costs,  
recoupment of attorney fees, no contact order  
with Victims Estella Kim, Christina Schaller, and Alice Thai,  
restitution. State will dismiss Count III at sentencing,  
S.C.

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. The law does not allow any reduction of this sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

The crime of Robbery 2<sup>o</sup> is a most serious offense as defined by RCW 9.94A.030(23), and if the judge determines that I have at least two prior convictions on separate occasions whether in this state, in federal court, or elsewhere, of most serious crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

The crime of \_\_\_\_\_ is also a "most serious offense" and a "sex offense" as defined in RCW 9.94A.030(23) and (27), and if the judge determines that I have one prior conviction whether in this state, in federal court or elsewhere of a most serious sex offense as defined in that statute, I may also be found to be a persistent offender in which case the judge must impose a mandatory sentence of life without the

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 4 OF 9

SC FORM REV 10/97

possibility of parole. RCW 9.94A.120(4). [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

~~SC~~ (i) The crime charged in Count \_\_\_\_\_ includes a ~~firearm/deadly weapon sentence enhancement~~ of \_\_\_\_\_ months. ~~RC.~~

~~This additional confinement time is mandatory and must be served consecutively to any other sentence I have already received or will receive in this or any other cause. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge SC RC.]~~

(j) The sentences imposed on counts I and II, except for any weapons enhancement, will run concurrently unless the judge finds substantial and compelling reason to do otherwise or unless there is a special weapons finding. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

(k) In addition to confinement, the judge will sentence me to community placement for at least one year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

~~(l) If this offense is a sex offense committed after 6/5/96 and I am either sentenced to the custody of the Department of Corrections or if I am sentenced under the special sexual offender sentence alternative, the court will, in addition to the confinement, impose not less than 3 years of community custody which will commence upon my release from jail or prison. Failure to comply with community custody may result in my return to confinement. In addition the court may extend the period of community custody in the interest of public safety for a period up to the maximum term which is \_\_\_\_\_.~~

~~[If not applicable this paragraph should be stricken and initialed by the defendant and judge SC RC.]~~

(m) The judge may sentence me as a first time offender instead of giving a sentence within the standard range

if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge SC.]

(n) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge SC.]

(o) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge SC.]

(p) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(q) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

(r) Because this crime involves a sex offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff

at least 14 days before moving and must register again with the sheriff within 24 hours of moving. If I change my residence to a new county within this state, I must send written notice of my change of residence to the sheriff of my new county at least 14 days before moving and I must give written notice of my change of address to the sheriff of the county where I last registered within 10 days of moving. If I move out of Washington state, I must also send written notice within 10 days of moving to the county sheriff with whom I last registered in Washington state.

[If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge SC

SC.]

(s) This plea of guilty will result in the revocation of my right to possess any firearm. Possession of any firearm after this plea is prohibited by law until my right to possess a firearm is restored by a court of record.

7. I plead guilty to the crime(s) of Robbery in the Second Degree - Counts I  
and II

as charged in the original ~~amended~~ Information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this pleas.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this (these) crime(s).

This is my statement:

Ct. I On October 29, 1997 in King County WA., I unlawfully and  
with intent to commit theft / take personal property of another  
to wit: U.S. currency from the person and in the presence of  
Estella Kim, against her will, by the use or threatened use of  
immediate force, violence, or fear of injury to such person;

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 7 OF 9

SC FORM REV 10/97

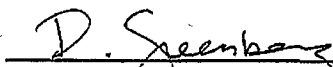
Ct #

On November 3, 1997, I did unlawfully and with intent to commit theft / take personal property in King Co. WA of another, to wit: U.S. currency from the person and in the presence of Christina Schaller, against her will, by the use or threatened use of immediate ~~force~~ violence, or fear of injury to such person.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

  
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

  
PROSECUTING ATTORNEY

  
DEFENDANT'S LAWYER

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- ☒ (a) The defendant had previously read; or
- ☒ (b) The defendant's lawyer had previously read to him or her; or
- ☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 8 OF 9

SC FORM REV 10/97

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

DATED this 20<sup>th</sup> day of January, 1998.

Kenneth Comstock  
JUDGE

Pro Tem.

I am fluent in the \_\_\_\_\_ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
TRANSLATOR

\_\_\_\_\_  
INTERPRETER

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY 9 OF 9

SC FORM REV 10/97

1  
2  
3 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

4 THE STATE OF WASHINGTON, )  
5 )  
6 Plaintiff, ) No. 97-1-09348-8 SEA  
7 )  
8 v. )  
9 STEVEN JOSEPH CLARK ) INFORMATION  
10 )  
11 )  
12 )  
13 Defendant. )  
14 )

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COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, committed as follows:

That the defendant STEVEN JOSEPH CLARK in King County, Washington on or about October 29, 1997, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency, from the person and in the presence of Estela Kim, against her will, by the use or threatened use of immediate force, violence and fear of injury to such person or her property and the person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, a crime of the same or similar character as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

INFORMATION- 1

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

1 That the defendant STEVEN JOSEPH CLARK in King County,  
2 Washington on or about November 3, 1997, did unlawfully and with  
3 intent to commit theft take personal property of another, to-wit:  
4 U.S. currency, from the person and in the presence of Christina  
5 Schaller, against her will, by the use or threatened use of  
6 immediate force, violence and fear of injury to such person or her  
7 property and the person or property of another;

8 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
9 and dignity of the State of Washington.

10 COUNT III

11 And I, Norm Maleng, Prosecuting Attorney aforesaid further do  
12 accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second  
13 Degree, a crime of the same or similar character as another crime  
14 charged herein, which crimes were part of a common scheme or plan  
15 and which crimes were so closely connected in respect to time, place  
16 and occasion that it would be difficult to separate proof of one  
17 charge from proof of the other, committed as follows:

18 That the defendant STEVEN JOSEPH CLARK in King County,  
19 Washington on or about November 10, 1997, did unlawfully and with  
20 intent to commit theft take personal property of another, to-wit:  
21 U.S. currency, from the person and in the presence of Alice Thai,  
22 against her will, by the use or threatened use of immediate force,  
23 violence and fear of injury to such person or her property and the  
24 person or property of another;

25 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: \_\_\_\_\_  
Angela Y. Griffin, WSBA #91002  
Deputy Prosecuting Attorney

CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

That Angela Y. Griffin is a Deputy Prosecuting Attorney for King County and is familiar with the police report and investigation conducted in Puget Sound Violent Crimes Task Force case No. 97-478565;

That this case contains the following upon which this motion for the determination of probable cause is made;

On October 29, 1997, a man, later identified as the defendant, Steven Joseph Clark, entered the Wells Fargo Bank located at 1620 Fourth Avenue, Seattle, King County, Washington. The defendant stood in a waiting line until the teller, Estela Kim, was alone. The defendant approached Kim and handed her a note. Kim quickly looked at the note and saw that it said something about stacking money. The defendant said "Hurry up!" Kim grabbed the money in one hand and handed it to the defendant. The defendant put the money in his jacket pocket and walked out of the bank. Bank employees called 911. Sergeant Gary Nelson of the Puget Sound Violent Crimes Task Force obtained the surveillance tape and printed still photos of the suspect from the tape.

On November 3, 1997, the defendant entered the Pacific Northwest Bank located at 425 Pike Street, Seattle, King County, Washington. He approached the teller, Christina Schaller, and held up a note for her to read. Schaller was unable to read the note because it was poorly written, however, she realized he was demanding money and she handed him money from her till. The defendant said, "I want your hundreds. Open your side drawer." Schaller gave the defendant the money from the side drawer. The defendant then left the bank.

On November 5, 1997, Sergeant Nelson and Detective Corrigan contacted a confidential informant and showed the informant a copy of the bank surveillance photo. The informant immediately identified the person in the photo as "Steve" and said that he was staying at the Seafair Motel. After calling the Seafair Motel, Sergeant Nelson learned the identity of the defendant and compiled a photographic montage.

On November 6, 1997, Kim was shown a photographic montage. She tentatively identified the defendant as the person who robbed her on October 29, 1997. On the same date, Sergeant Nelson showed Schaller a photographic montage. Immediately and confidently Schaller

Certification for Determination  
of Probable Cause - 1

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

1 ~~identified the defendant as the person who robbed her on November 3,~~  
2 ~~1997.~~

3 On ~~November 10, 1997,~~ the defendant entered U.S. Bank located  
4 at 1301 Fifth Avenue, Seattle, King County, Washington. The  
5 defendant approached the teller, Alice Thai, with a note that said  
6 "Hurry 20, 50, 100." Thai handed the defendant money. The  
7 ~~defendant took the money and left the bank.~~

8 On November 19, 1997, Sergeant Nelson learned the whereabouts  
9 of the defendant. The defendant was arrested and advised of his  
10 Miranda rights. ~~He gave a written confession admitting to the three~~  
11 ~~bank robberies:~~ the robbery of Wells Fargo on October 29, 1997, the  
12 robbery of Pacific Northwest Bank on November 3, 1997 and the  
13 robbery of U.S. Bank on November 10, 1997.

14 The State requests bail in the amount of \$75,000. The  
15 defendant's criminal history includes convictions for Burglary  
16 Second Degree (1987), Assault Second Degree (1989), Attempted Theft  
17 Second Degree (1995) and Escape third Degree (1997). The defendant  
18 has 69 prior failures to appear. The State requests the defendant  
19 be ordered to have no contact with Alice Thai, Christina Schaller  
20 and Estella Kim.

21 Under penalty of perjury under the laws of the State of Washington,  
22 I certify that the foregoing is true and correct. Signed and dated  
23 by me this \_\_\_\_ day of November, 1997, at Seattle, Washington.

24  
25  
\_\_\_\_\_  
Angela Y. Griffin, WSBA #91002

Certification for Determination  
of Probable Cause - 2

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

☒ PLEA AGREEMENT / ☐ TRIAL

Defendant:

Clark, Steven J.

Date:

12-9-97

Cause No:

97-1-09348-8 SEA

On Plea To:

☒ As Charged

☐ Special Finding/Verdict; ☐ Deadly Weapon (RCW 9.94.125); ☐ School Zone-VUCSA (RCW 69.50) on Count(s) \_\_\_\_\_

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1. ☒ DISMISS: Upon disposition of Count(s) I & II, the State moves to dismiss Count(s): III
2. ☒ REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:  
☒ as set forth in the certification(s) of probable cause filed herein.  
☐ as set forth in the attached Appendix C.
3. ☒ RESTITUTION: Pursuant to RCW 9.94A.140(2), the defendant agrees to pay restitution as follows:  
☒ in full to the victim(s) on charged counts.  
☐ as set forth in attached Appendix C.
4. ☒ OTHER: No contact w/ Estella Kim, Christina Schaller, Alice Thai
5. ☒ SENTENCE RECOMMENDATION:
  - a. ☒ The defendant agrees to the foregoing Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation.
  - b. ☐ The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regards to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Maximum on Count I is not more than 10 years and/or \$ 20,000 fine.

Maximum on Count II is not more than 10 years and/or \$ 20,000 fine.

Mandatory Minimum Term (RCW 9.94A.120(4) only): \_\_\_\_\_

☐ Mandatory license revocation RCW 46.20.285

Ten years jurisdiction and supervision for monetary payments. RCW 9.94A.120d(9).

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new crimes, fails to appear for sentencing or violates the conditions of his release.

Defendant

Deputy Prosecuting Attorney

Attorney for Defendant

Judge, King County Superior Court

King County Prosecuting Attorney  
Rev. 8/25/89

White Copy: Court  
Canary Copy: Defense  
Pink Copy: Prosecutor

# GENERAL SCORING FORM

## Violent Offenses

CT I

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Damaging Building, etc., by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Robbery 1 and 2.

|  |                                  |  |
|--|----------------------------------|--|
| OFFENDER'S NAME<br><b>CLARK, STEVEN JOSEPH</b> | OFFENDER'S DOB<br><b>12/7/67</b> | STATE ID# <b>WA</b><br><b>14406779</b> |
| JUDGE  | CAUSE#<br><b>97-1-09348-8</b>    | FBI ID#<br><b>374445KA9</b>            |

Doc # 927696

**ADULT HISTORY:** (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of serious violent and violent felony convictions ..... 1 x 2 = 2  
 Enter number of other nonviolent felony convictions ..... 1 x 1 = 1

**JUVENILE HISTORY:** (Adjudications entered on the same date count as one offense, except for violent offenses with separate victims)

Enter number of serious violent and violent felony adjudications ..... x 2 = .....  
 Enter number of other nonviolent felony adjudications ..... x 1/2 = .....

**OTHER CURRENT OFFENSES:** (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions CT5 II III ..... 2 x 2 = 4  
 Enter number of other nonviolent felony convictions ..... x 1 = .....

**STATUS AT TIME OF CURRENT OFFENSES:**

If on community placement at time of current offense, add 1 point ..... + 1 = .....

Total the last column to get the **Offender Score**  
 (Round down to the nearest whole number)

**7**

### STANDARD RANGE CALCULATION\*

|                                 |                      |                   |                                |    |           |
|---------------------------------|----------------------|-------------------|--------------------------------|----|-----------|
| <b>ROBBERY 2° CT, I</b>         | <b>IV</b>            | <b>5</b>          | <b>22</b>                      | TO | <b>29</b> |
| CURRENT OFFENSE<br>BEING SCORED | SERIOUSNESS<br>LEVEL | OFFENDER<br>SCORE | LOW<br>STANDARD SENTENCE RANGE |    | HIGH      |

\* Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.

\* If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III- 15 or III-16 to calculate the enhanced sentence.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

|                          |   |                      |
|--------------------------|---|----------------------|
| THE STATE OF WASHINGTON, | ) |                      |
|                          | ) |                      |
| Plaintiff,               | ) | No. 97-1-09348-8 SEA |
|                          | ) |                      |
| v.                       | ) |                      |
| STEVEN JOSEPH CLARK      | ) | INFORMATION          |
|                          | ) |                      |
|                          | ) |                      |
|                          | ) |                      |
| Defendant.               | ) |                      |

---

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, committed as follows:

That the defendant STEVEN JOSEPH CLARK in King County, Washington on or about October 29, 1997, did unlawfully and with intent to commit theft take personal property of another, to-wit: U.S. currency, from the person and in the presence of Estela Kim, against her will, by the use or threatened use of immediate force, violence and fear of injury to such person or her property and the person or property of another;

Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second Degree, a crime of the same or similar character as another crime charged herein, which crimes were part of a common scheme or plan and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

INFORMATION- 1

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

1 That the defendant STEVEN JOSEPH CLARK in King County,  
2 Washington on or about November 3, 1997, did unlawfully and with  
3 intent to commit theft take personal property of another, to-wit:  
4 U.S. currency, from the person and in the presence of Christina  
5 Schaller, against her will, by the use or threatened use of  
6 immediate force, violence and fear of injury to such person or her  
7 property and the person or property of another;

8 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
9 and dignity of the State of Washington.

10 COUNT III

11 And I, Norm Maleng, Prosecuting Attorney aforesaid further do  
12 accuse STEVEN JOSEPH CLARK of the crime of Robbery in the Second  
13 Degree, a crime of the same or similar character as another crime  
14 charged herein, which crimes were part of a common scheme or plan  
15 and which crimes were so closely connected in respect to time, place  
16 and occasion that it would be difficult to separate proof of one  
17 charge from proof of the other, committed as follows:

18 That the defendant STEVEN JOSEPH CLARK in King County,  
19 Washington on or about November 10, 1997, did unlawfully and with  
20 intent to commit theft take personal property of another, to-wit:  
21 U.S. currency, from the person and in the presence of Alice Thai,  
22 against her will, by the use or threatened use of immediate force,  
23 violence and fear of injury to such person or her property and the  
24 person or property of another;

25 Contrary to RCW 9A.56.210 and 9A.56.190, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: \_\_\_\_\_  
Angela Y. Griffin, WSBA #91002  
Deputy Prosecuting Attorney

# SENTENCE SCORING FORM

CT II

## Violent Offenses

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Damaging Building, etc., by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Robbery 1 and 2.

|  |                                  |  |
|--|----------------------------------|--|
| OFFENDER'S NAME<br><b>CLARK, STEVEN JOSEPH</b> | OFFENDER'S DOB<br><b>12/7/67</b> | STATE ID# <b>WA</b><br><b>14406779</b> |
| JUDGE  | CAUSE#<br><b>97-1-09348-8</b>    | FBI ID#<br><b>374445KA9</b>            |

DOC # 927696

**ADULT HISTORY:** (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of serious violent and violent felony convictions ..... 1 x 2 = 2  
 Enter number of other nonviolent felony convictions ..... 1 x 1 = 1

**JUVENILE HISTORY:** (Adjudications entered on the same date count as one offense, except for violent offenses with separate victims)

Enter number of serious violent and violent felony adjudications ..... x 2 = .....  
 Enter number of other nonviolent felony adjudications ..... x 1/2 = .....

**OTHER CURRENT OFFENSES:** (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions CT II ..... 1 x 2 = 2  
 Enter number of other nonviolent felony convictions ..... x 1 = .....

**STATUS AT TIME OF CURRENT OFFENSES:**

If on community placement at time of current offense, add 1 point ..... + 1 = .....

Total the last column to get the **Offender Score**  
 (Round down to the nearest whole number)

**5**

### STANDARD RANGE CALCULATION\*

|                                 |                      |                   |                                |    |           |
|---------------------------------|----------------------|-------------------|--------------------------------|----|-----------|
| <b>ROBBERY 2° CT II</b>         | <b>W</b>             | <b>5</b>          | <b>22</b>                      | TO | <b>29</b> |
| CURRENT OFFENSE<br>BEING SCORED | SERIOUSNESS<br>LEVEL | OFFENDER<br>SCORE | LOW<br>STANDARD SENTENCE RANGE |    | HIGH      |

- \* Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.
- \* If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III- 15 or III-16 to calculate the enhanced sentence.

# GENERAL SCORING FORM

CT II

## Violent Offenses

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Assault of a Child 2; Bail Jumping with Murder 1; Damaging Building, etc., by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Robbery 1 and 2.

|  |                                  |  |
|--|----------------------------------|--|
| OFFENDER'S NAME<br><b>CLARK, STEVEN JOSEPH</b> | OFFENDER'S DOB<br><b>12/7/67</b> | STATE ID# <b>WA</b><br><b>14406779</b> |
| JUDGE  | CAUSE#<br><b>97-1-09348-8</b>    | FBI ID#<br><b>374445 KA9</b>           |

DOC # 927696

ADULT HISTORY: (If the prior offense was committed before 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed after 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of serious violent and violent felony convictions 1 x 2 = 2  
Enter number of other nonviolent felony convictions 1 x 1 = 1

JUVENILE HISTORY: (Adjudications entered on the same date count as one offense, except for violent offenses with separate victims)

Enter number of serious violent and violent felony adjudications \_\_\_\_\_ x 2 = \_\_\_\_\_  
Enter number of other nonviolent felony adjudications \_\_\_\_\_ x 1/2 = \_\_\_\_\_

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)

Enter number of other serious violent and violent felony convictions CT I 1 x 2 = 2  
Enter number of other nonviolent felony convictions \_\_\_\_\_ x 1 = \_\_\_\_\_

STATUS AT TIME OF CURRENT OFFENSES:

If on community placement at time of current offense, add 1 point + 1 = \_\_\_\_\_

Total the last column to get the Offender Score  
(Round down to the nearest whole number)

**5**

### STANDARD RANGE CALCULATION\*

|                                 |                      |                   |                                |    |           |
|---------------------------------|----------------------|-------------------|--------------------------------|----|-----------|
| <b>ROBBERY 2° CT. II</b>        | <b>IV</b>            | <b>5</b>          | <b>22</b>                      | TO | <b>29</b> |
| CURRENT OFFENSE<br>BEING SCORED | SERIOUSNESS<br>LEVEL | OFFENDER<br>SCORE | LOW<br>STANDARD SENTENCE RANGE |    | HIGH      |

- \* Multiply the range by .75 if the current offense is an attempt, conspiracy, or solicitation.
- \* If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III- 15 or III-16 to calculate the enhanced sentence.

**STATE'S SENTENCE RECOMMENDATION**  
(USE FOR NON-SEX OFFENSE SENTENCES OF OVER ONE YEAR ONLY)

Date: 12-9-97

Defendant: Steven Clark Cause No: 97-1-09348-8 SEA/KNT

State recommends that the defendant be sentenced to a term of total confinement in the Department of Corrections as follows:

|   |                       |
|---|-----------------------|
| Count I <u>29</u> <u>43</u> <u>months</u> | Count IV _____ months |
| Count II <u>29</u> months                 | Count V _____ months  |
| Count III <u>to be DM at sent.</u> months | Count VI _____ months |

Terms on each count to run concurrently/~~consecutively~~ with each other.

Terms to be served concurrently/~~consecutively~~ with: \_\_\_\_\_

Terms to be consecutive to any other terms(s) not specifically referred to in this form.

☐ **WEAPONS ENHANCEMENT - RCW 9.94A.310:** The above recommended term(s) of confinement include the following weapons enhancement time: \_\_\_\_\_ months for Ct. \_\_\_\_\_, \_\_\_\_\_ months for Ct. \_\_\_\_\_, \_\_\_\_\_ months for Ct. \_\_\_\_\_; which is/are mandatory, served without good time and served consecutive to any other term of confinement. The total of all recommended terms of confinement in this cause is: \_\_\_\_\_ months.

☐ **WORK ETHIC CAMP - RCW 9.94A.137:** Defendant is legally eligible (Range is not less than 16 months, not more than 36 months, no current or prior sex or violent offense). Work ethic camp is/is not recommended. If not, why not: \_\_\_\_\_

☐ **DRUG OFFENDER SENTENCE ALTERNATIVE - RCW 9.94a.120(6)(a):** Defendant is legally eligible (no prior felony; no deadly weapon finding; current offense is delivery, possession with intent, or manufacturing of schedule I/II narcotic or attempt/solicitation of same; small quantity). D.O.S.A. sentence is/is not recommended. If not, why not: \_\_\_\_\_

☐ **EXCEPTIONAL SENTENCE:** This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

☐ **NO CONTACT:** For the maximum term, defendant have no contact with Estella Kim, Christina Schaller  
Alice Thai

**MONETARY PAYMENTS:** Defendant make the following monetary payments under the supervision of the Department of Corrections for up to 10 years pursuant to RCW 9.94A.120(12) and RCW 9.94A.145.

☒ Restitution as set forth in the "Plea Agreement" page and ☐ Appendix C.

☒ Court costs; mandatory \$500 Victim Penalty Assessment, recoupment of cost for appointed counsel.

☐ King County Local Drug Fund \$ \_\_\_\_\_; ☐ \$100 lab fee RCW 43.43.690.

☐ Fine of \$ \_\_\_\_\_; ☐ \$1000, fine for VUCSA; ☐ \$2000, fine for subsequent VUCSA.

☐ Costs of incarceration in K.C. Jail at \$50 per day. RCW 9.94A.145(2).

☐ Emergency response costs, \$ \_\_\_\_\_ RCW 38.52.430

☐ Extradition costs of \$ \_\_\_\_\_

☐ Other \_\_\_\_\_

**COMMUNITY PLACEMENT - RCW 9.94A.120(9):** is mandatory for any offender sentenced to the Department of Corrections for the following offenses: any "serious violent" offense, vehicular homicide, or vehicular assault for a period of two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1), whichever is longer; any assault in the second degree or assault of a child second degree, any felony violation of RCW 69.50/52, or any crime against a person with a special deadly weapon finding for a period of one year. Community placement incorporates community custody, in lieu of earned early release, and post release supervision subject to statutory mandatory conditions listed in RCW 9.94A.120(9)(B) and other discretionary conditions set by the court listed in RCW 9.94A.120(9)(C). Discretionary conditions recommended by the state: \_\_\_\_\_

**BLOOD TESTING:** HIV blood testing is mandatory under RCW 70.24.340 for any sex offense, prostitution related offense, or drug offense associated with needle use. DNA testing is mandatory under 43.43.754 for any sex offense or violent offense as defined in RCW 9.94A.030.

Approved by:

Dana Castle  
Deputy Prosecuting Attorney

KING COUNTY PROSECUTING ATTORNEY  
Revised 10/97

WHITE COPY: COURT  
CANARY COPY: DEFENSE  
PINK COPY: PROSECUTOR

**APPENDIX B TO PLEA AGREEMENT  
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY  
(SENTENCING REFORM ACT)**

Defendant: CLARK, STEVEN JOSEPH Date: 12/25/97

| CRIME | DATE OF CONVICTION | PLACE OF CONVICTION | DISPOSITION<br>(Probation and/or incarceration and length) SRA —<br>Counts as Prior |
|-------|--------------------|---------------------|---|
|-------|--------------------|---------------------|---|

**ADULT FELONIES:**

4-9-87 - BURGLARY 2° - KC 86-1-04670-1 - 30 days jail - 12 mos. SUPPLY Doc  
8-18-89 - ASSAULT 2° - KC 89-1-01436-6 - 6 mos jail - 12 mos SUPPLY Doc

**ADULT MISDEMEANORS:**

8/28/88 - RESISTING ARREST - KC NED - 2733  
8/28/88 - Assault 4° - KC NED - 2741  
11/1/88 - Disturbing Peace - KC NED - 3426  
10/25/90 - Reckless Driving - KC NED - 4624  
12/1/90 - Theft 3° - KC NED 3398

**JUVENILE FELONIES:**

1/25/92 - Poss. Marijuana - KC SDC - 5200  
3/21/92 - Public Indecency - Snoho Co. EVD - 156204  
7/31/95 - Theft 3° - KC - NED - CR 0011304  
9/11/95 - Theft 2° MISO - KC 95-1-07556-4  
7/5/96 - Theft - KC BEL BC 0104837

**JUVENILE MISDEMEANORS:**

7/10/96 - ASSAULT 4° / Theft 3° - KC ISQ C00000004  
4/8/97 - Theft 3° - KC ISQ C000002977  
5/16/97 - Escape 3° - KC SDC - 103501  
6/21/97 - Theft / Obstructing Public Officer - KC BEL - BC0112474

RG/DOC

Deputy Prosecuting Attorney

King County Prosecuting Attorney

## APPENDIX C

FILED

98 MAR 12 AM 9:13  
SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.  
STATE OF WASHINGTON,

Plaintiff,

NO. 97-1-09348-8 SEA

vs.

ORDER MODIFYING JUDGMENT  
AND SENTENCE

STEVEN J. CLARK,

Defendant.

D.O.C. # 927646

THIS MATTER having come on regularly before the undersigned judge of the above-entitled court upon the motion pursuant to CrR 7.8(a) of the State of Washington, plaintiff, for an order modifying judgment and sentence to correct a clerical error or failure on the written judgment and to correspond with the actual sentence imposed by the court in the above-entitled cause, and the court being fully advised in the premises; now, therefore,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Judgment and Sentence filed herein is modified as follows:

( ) Community Supervision is ordered for a period of 12 months as written in section 4.4(b) of the Judgment and Sentence

( ) Other Community Placement, at page 3 § 4.7 and appendix H, is vacated.

All other terms of the Judgment remain in full force and effect.

DONE IN OPEN COURT this 12th day of March, 1998.

Anthony P. Warthick  
Superior Court Judge

Presented by:

Michael J. Jones  
Deputy Prosecuting Attorney

ORDER MODIFYING JUDGMENT AND SENTENCE

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

MAR 13 1998

CERTIFIED COPY TO COUNTY JAIL

## APPENDIX D

NAME: STEVEN CLARK DOC#: 927696 SID#: 14406779  
CCO: CCO TELEPHONE:  
CCO OFFICE: LATEST PROJECTED RELEASE DATE: 11/07/2142  
LAST RELEASED FROM: WA COR CTR RC

CURRENT LOC: MCC-WA. STATE REFORMATORY

CURRENT STATUS: PRISON

\*\*\*\*\* MOVEMENT HISTORY \*\*\*\*\*

KEY: D=DECEASED E=ESCAPED F=FURLOUGH J=JAIL N=NOT UNDER WA DOC JURISDICTION  
P=IMPRISONED S=SUPERVISION U=UNAVAILABLE FOR IN-PERSON REPORTING W=WORK RELEASE  
P: 06/20/00 TO PRESENT S: 04/18/97 TO 05/14/97 J: 08/02/96 TO 08/04/96  
S: 05/18/99 TO 06/20/00 J: 04/18/97 TO 04/18/97 U: 07/16/96 TO 08/02/96  
P: 05/18/99 TO 05/18/99 U: 03/03/97 TO 04/18/97 S: 12/15/95 TO 07/16/96  
S: 05/01/99 TO 05/18/99 S: 12/23/96 TO 03/03/97 J: 11/14/95 TO 12/15/95  
J: 03/23/99 TO 05/01/99 J: 11/15/96 TO 12/23/96 S: 06/30/95 TO 11/14/95  
P: 03/03/98 TO 03/23/99 U: 10/23/96 TO 11/15/96 J: 06/22/95 TO 06/30/95  
U: 05/14/97 TO 03/03/98 S: 08/04/96 TO 10/23/96 U: 06/22/95 TO 06/22/95

MORE INFORMATION ON NEXT PAGE....

F1=MENU, F3=EXIT, F7=PAGE BACKWARD, F8=PAGE FORWARD, ENTER=CONTINUE

## APPENDIX E

JUDGE OVER 21

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

STEVEN J CLARK

Defendant.

No. 99-C-02058-4 SEA

JUDGMENT AND SENTENCE

FILED

99 MAY 17 AM 10:00  
KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

MAY 17 1999

COMMITMENT ISSUED

COPY TO SENTENCING GUIDELINES COMMISSION MAY 17 1999  
PRESENTENCING STATEMENT

I. HEARING

1.1 The defendant, the defendant's lawyer, CARY VIRTUE (ACA), and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: \_\_\_\_\_

1.2 The state has moved for dismissal of count(s) \_\_\_\_\_

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 05-10-99 by plea of: See P. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

Count No.: I Crime: VUCSA- DELIVERY OF CLONAZEPAM  
RCW 69.50.401 A 1 I Crime Code 27319  
Date of Crime 02-05-97 Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code \_\_\_\_\_  
Date of Crime \_\_\_\_\_ Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code \_\_\_\_\_  
Date of Crime \_\_\_\_\_ Incident No. \_\_\_\_\_  
☐ Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a) ☐ A special verdict/finding for being armed with a **Firearm** was rendered on Count(s): \_\_\_\_\_  
(b) ☐ A special verdict/finding for being armed with a **Deadly Weapon** other than a **Firearm** was rendered on Count(s): \_\_\_\_\_  
(c) ☐ A special verdict/finding was rendered that the defendant committed the crime(s) with a **sexual motivation** in Count(s): \_\_\_\_\_  
(d) ☐ A special verdict/finding was rendered for **Violation of the Uniform Controlled Substances Act** offense taking place ☐ in a school zone ☐ in a school ☐ on a school bus ☐ in a school bus route stop zone ☐ in a public park ☐ in public transit vehicle ☐ in a public transit stop shelter in Count(s): \_\_\_\_\_  
(e) ☒ **Vehicular Homicide** ☐ Violent Offense (D.W.I. and/or reckless) or ☐ Nonviolent (disregard safety of others)  
(f) ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: \_\_\_\_\_

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): \_\_\_\_\_

9A

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

| Crime           | Sentencing Date | Adult or Juv. Crime | Cause Number | Location |
|-----------------|-----------------|---------------------|--------------|----------|
| (a) BURG 2      | 04-09-87        | ADULT               | 861046701    | KING CO  |
| (b) ASLT 2      | 08-18-89        | ADULT               | 891014366    | KING CO  |
| (c) 2CTS ROBB 2 | 02-27-98        | ADULT               | 971093488    | KING CO  |
| (d)             |                 |                     |              |          |

☐ Additional criminal history is attached in Appendix B.

☐ Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):

☐ One point added for offense(s) committed while under community placement for count(s) \_\_\_\_\_

#### 2.4 SENTENCING DATA:

| SENTENCING DATA | OFFENDER SCORE | SERIOUSNESS LEVEL | STANDARD RANGE | ENHANCEMENT | TOTAL STANDARD RANGE | MAXIMUM TERM          |
|-----------------|----------------|-------------------|----------------|-------------|----------------------|-----------------------|
| Count I         | 4              | IV                | 15 TO 20 MO    | *.75        | 11.25 TO 15 MONTHS   | 5 YRS AND/OR \$10,000 |
| Count           |                |                   |                |             |                      |                       |
| Count           |                |                   |                |             |                      |                       |

Additional current offense sentencing data is attached in Appendix C.

#### 2.5 EXCEPTIONAL SENTENCE:

☐ Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) \_\_\_\_\_. Findings of Fact and Conclusions of Law are attached in Appendix D. The State ☐ did ☐ did not recommend a similar sentence.

### III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

☐ The Court DISMISSES Count(s) \_\_\_\_\_

### IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

#### 4.1 RESTITUTION AND VICTIM ASSESSMENT:

☐ Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.

☐ Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.

☐ Restitution to be determined at future hearing on (Date) \_\_\_\_\_ at \_\_\_\_\_, m. ☐ Date to be set.

☐ Defendant waives presence at future restitution hearing(s).

Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.

☒ Restitution is not ordered.

4.2 **OTHER FINANCIAL OBLIGATIONS:** Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

(a) ☐ \$ \_\_\_\_\_, Court costs; ☒ Court costs are waived;

(b) ☐ \$ \_\_\_\_\_, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; ☒ Recoupment is waived (RCW 10.01.160);

(c) ☐ \$ \_\_\_\_\_, Fine; ☐ \$1,000, Fine for VUCSA; ☐ \$2,000, Fine for subsequent VUCSA; ☒ VUCSA fine waived (RCW 69.50.430);

(d) ☐ \$ \_\_\_\_\_, King County Interlocal Drug Fund; ☒ Drug Fund payment is waived;

(e) ☐ \$ \_\_\_\_\_, State Crime Laboratory Fee; ☒ Laboratory fee waived (RCW 43.43.690);

(f) ☐ \$ \_\_\_\_\_, Incarceration costs; ☒ Incarceration costs waived (9.94A.145(2));

(g) ☐ \$ \_\_\_\_\_, Other cost for: \_\_\_\_\_

4.3 **PAYMENT SCHEDULE:** Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 500. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

☐ Not less than \$ \_\_\_\_\_ per month; ☒ On a schedule established by the defendant's Community Corrections Officer. Trust fees and interest waived.

The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: ☒ Immediately; ☐ (Date): \_\_\_\_\_ by \_\_\_\_\_, m.

12 + 1 day months on Count I \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

ENHANCEMENT time due to special deadly weapon/firearm finding of \_\_\_\_\_ months is included for Counts \_\_\_\_\_

The terms in Count(s) \_\_\_\_\_ are concurrent/consecutive.

The sentence herein shall run concurrently with the sentence in cause number(s) 97-1-09348-B but consecutive to any other cause not referred to in this Judgment. SEA

53 days Credit is given for ☒ 53 days served ☐ days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15). + 12 months + 1 day (for concurrent time)

4.5 ☐ **NO CONTACT:** For the maximum term of \_\_\_\_\_ years, defendant shall have no contact with \_\_\_\_\_

Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6 **BLOOD TESTING:** (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 **COMMUNITY PLACEMENT, RCW 9.94A.120(9):** Community Placement is ordered for any of the following eligible offenses: any "sex offense", any "serious violent offense", second degree assault, any offense with a deadly weapon finding, any CH 69.50 or 69.52 RCW offense, for the maximum period of time authorized by law. All standard and mandatory statutory conditions of community placement are ordered.  
☒ Appendix H (for additional nonmandatory conditions) is attached and incorporated herein.

4.8 ☐ **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp and is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the Department shall convert the period of work ethic camp confinement at a rate of one day of work ethic camp to three days of total standard confinement and the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b).

☐ Appendix K for additional special conditions, RCW 9.94A.120(9)(c), is attached and incorporated herein.

4.9 ☐ **SEX OFFENDER REGISTRATION** (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10 ☐ **ARMED CRIME COMPLIANCE, RCW 9.94A.103,105.** The state's plea/sentencing agreement is ☐ attached ☐ as follows:

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: 5-14-99

Judge [Signature]

Print Name: Carol Schapira

Presented by: [Signature]

Approved as to form: [Signature]

Deputy Prosecuting Attorney, Office WSBA ID #91002

Print Name: Peter G. Meyers

Attorney for Defendant, WSBA # 17100

Print Name: CARY VIVINE

FINGERPRINTS



RIGHT HAND  
FINGERPRINTS OF:

STEVEN JOSEPH CLARK

DATED: MAY 14 1999  
[Signature]  
JUDGE, KING COUNTY SUPERIOR COURT

DEFENDANT'S SIGNATURE: [Signature]  
DEFENDANT'S ADDRESS: 3231 NE 8th St Camden WA 98004

ATTESTED BY:  
PAUL L. SHERFEY, SUPERIOR COURT CLERK  
BY: Joseph M. Mason  
DEPUTY CLERK

CAROL A. SCHAPIRA

CERTIFICATE

OFFENDER IDENTIFICATION

I, \_\_\_\_\_,  
CLERK OF THIS COURT, CERTIFY THAT  
THE ABOVE IS A TRUE COPY OF THE  
JUDGEMENT AND SENTENCE IN THIS  
ACTION ON RECORD IN MY OFFICE.  
DATED: \_\_\_\_\_

S.I.D. NO. WA14406779

DATE OF BIRTH: DECEMBER 7, 1967

SEX: M

RACE: W

CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

CERTIFICATION OF SERVICE

Today I deposited in the mails of the United States of America, a properly stamped and addressed envelope directed to Jeffrey Ellis, at the following address: Ellis, Holmes & Witchley, 705 Second Avenue, Suite 401, Seattle, WA 98104, the petitioner, containing a copy of the State's Response to Personal Restraint Petition in In re Steven Clark, No. 59970-4-I, in the Court of Appeals of the State of Washington.

I certify under penalty of perjury of the laws of the state of Washington that the

foregoing is true and correct.

Name

Done in Seattle, Washington

Date

08/13/2007

FILED  
COURT OF APPEALS DIV. #1  
STATE OF WASHINGTON  
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